

Attorney's Docket: 2002DE443

Serial No.: 10/727,770

Art Unit 1751

Response to Office Action of November 29, 2005

REMARKS/ARGUMENTS

The Office Action mailed November 29, 2005 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Claims 1-8 were rejected under 35 U.S.C. 102(e) as being anticipated by Morschhauser et al. US 2004/0058847 (Application No. 10/666,450, filed 09/19/2003) which was first published on March 25, 2004. The rejection of claim 1-8 under 35 U.S.C. 102(e) as being anticipated by Morschhauser et al. (US 2004/0058847) should be withdrawn for the reason that the Morschhauser et al. reference, US publication 2004/0058847, does not qualify as proper prior art. The instant Application claims priority from German Patent Application DE 10257279.8, filed in Germany on December 7, 2002. Attached to this paper is a certified translation of this German priority document.

Claims 1-8 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 10/666,450. Applicant has herewith provided a Terminal Disclaimer which disclaims the terminal portion of the statutory term of any patent granted on the instant invention which would extend beyond the expiration date of the full statutory term of any patent granted on copending Application No. 10/666,450, which is commonly owned and the extent of which is the whole of this invention. The Commissioner is hereby requested to charge the Statutory Disclaimer fees of

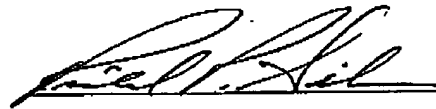
Attorney's Docket: 2002DE443Serial No.: 10/727.770Art Unit 1751Response to Office Action of November 29, 2005

\$130.00 pursuant to 37 CFR 1.20(d) to Deposit Account No. 03-2060. Therefore the provisional rejection of Claims 1-8 under the judicially created doctrine of double patenting over claims 1-15 of copending Application No. 10/666,450 should be withdrawn.

It is respectfully submitted that, in view of the above remarks, the rejections under the ground of nonstatutory obviousness-type double patenting and under 35 U.S.C. §103 should be withdrawn and that this application is in a condition for an allowance of all pending claims. Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

An early and favorable action is courteously solicited.

Respectfully submitted,



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Attachment:

Certified Translation of Priority Document DE 10257279.8
Terminal Disclaimer over copending US Application No. 10/666,450